

REMARKS

Claims 1-13, 15-18, 27-31, and 33-40 are now pending in the application.¹

Claims 14 and 19-26 are cancelled without prejudice or disclaimer of the subject matter contained therein and new claims 36-40 are added by this amendment. Minor amendments have been made to the claims to simply overcome the rejections of the claims under 35 U.S.C. § 112. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

The Applicant would like to thank the Examiner for the courtesies extended during the telephone interview of February 14, 2003.

REJECTION UNDER 35 U.S.C. § 112

Claims 14, 30-31, and 33-35 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter which Applicant regards as the invention. This rejection is respectfully traversed.

Claim 14 has been cancelled, thereby rendering moot the rejection thereof.

Minor amendments have been made to claim 30 to overcome the rejections of the Examiner.

¹ Claim 32 was inadvertently omitted from the Amendment filed on September 6, 2002, and thus has never been presented in this application. The Examiner's reference to claim 32 in her office action has been interpreted as referring to claim 33.

Claim 31 stands rejected under 35 U.S.C. § 112, second paragraph, as containing subject matter not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time of the application was filed, had possession of the claimed invention. Specifically, the Examiner states "the amount of '2-6% of said catalyst' is not supported by the original disclosure. The original claims disclose 3-6%, not 2-6%." Applicant disagrees with the Examiner for the reasons set forth below; however, in the interest of expediting prosecution of this application, claim 31 has been amended to recite the range "3-6% of said catalyst."

In contrast to the Examiner's position, Applicant submits that one skilled in the art would reasonably understand that the details of the preferred embodiment are merely exemplary and that variation can be made without departing from the spirit and scope of the present invention. See, paragraphs 0022-0023 and 0031. Moreover, while the claims as originally filed form a part of the original disclosure, they should not be used to limit other claims of the application. For at least these reasons, Applicant submits that the application as originally filed supports a range more broad than that specifically recited in originally-filed dependant claim 10.

Claim 33 has been rejected the Examiner stating that "said carrier" does not have antecedent basis. Claim 33 depends from claim 16 which provides antecedent basis for a carrier. Claims 34 and 35 depend from claim 33, therefore they also have antecedent basis for "said carrier."

REJECTION UNDER 35 U.S.C. § 103

Claims 14-18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Silva (U.S. Pat. No. 4,500,548) in view of Domingues (U.S. Pat. No. 5,514,386). This rejection is respectfully traversed.

Claim 14 has been cancelled, therefore the Applicant believes this rejection has been rendered moot. Claims 15-18 now depend from new claim 36. The Applicant believes that new claim 36 is in a condition for allowance in light of the cited art.

New claim 36 recites a reprocessed dough comprising a rework dough, water and a catalyst which accelerates fermentation such that substantially all of the yeast content in the rework dough naturally expires. Silva does not disclose a catalyst which accelerates fermentation for naturally expiring yeast content. Rather, Silva teaches adding a fermentation aid (i.e., a "dried ferment" of specific ingredients) to a new dough, thereby reducing the fermentation time of the new dough without sacrificing the standard bread characteristics including flavor, aroma or texture. See generally, col. 3, Ins. 21-22; col. 5, Ins. 27-53; col. 6, Ins. 40-65. As such, fermentation aid of Silva does not impact the natural expiration of the yeast in a rework dough. In contrast, as recited in claim 36, the reprocessed dough includes a catalyst which "accelerates fermentation of said yeast content in said rework dough such that substantially all of said yeast content naturally expires."

The Examiner states that Silva adds a fermentation aid only to a new dough, but relies on column 4, lines 33-35 for the position that the fermentation aid could be used with a rework dough. However, the cited portion of Silva only teaches

using a portion of a previous ferment as an ingredient of a new ferment. Applicant submits that this statement does not support the Examiner's contention that Silva also discloses adding the fermentation aid to a rework dough.

Silva teaches a fermentation aid which includes "a dry ferment residue prepared by a process comprising fermenting a mixture comprising flour, sugar ..., water and a yeast ... in the absence of other ingredients" See, col. 3, lines 4-12 (emphasis added). The fermentation aid of Silva includes sugar in an amount ranging from about 0-10% and preferably about 3-8% based on the weight of the flour. The Examiner relies on the teachings of Domingues to include wheat gluten. However, the Examiner has not provided any suggestion or motivation to make such a combination, and in fact the teachings of Silva are inopposite to such a combination. In contrast, claim 36 recites a reprocessed dough comprising "a rework dough including a flour content and a yeast content; water; and a catalyst including about 18-22% dextrose, about 58-62% sugar, about 8-12% wheat gluten, and about 0.75-1.50% of an enzyme..."

For the reasons set forth above, Applicant submits that claim 36 is not taught nor rendered obvious by Silva alone or in combination with Domingues. Therefore, Applicant submits that independent claim 36, and claims 15-18 dependent thereon are in a condition for allowance.

NEW CLAIMS

New independent claim 37, and dependent claims 38-40 have been added. The Applicant believes that independent claim 37 is allowable as it is not taught by the cited

art. Independent claim 37 recites a dough comprising a fresh dough and a reprocessed dough making up more than 15% of the dough. Silva teaches "the fermentation aid is used in amounts ... [that] can range from about 2% to about 10%. "Even assuming the fermentation aid of Silva is equivalent to the reprocessed dough or any part thereof, Silva does not teach the use of such proportions of the fermentation aid in the dough. Therefore, the Applicant believes that independent claim 37, and dependent claims 38-40 dependent thereon, are in a condition for allowance.

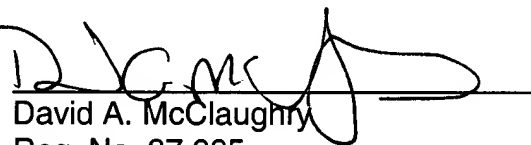
CONCLUSION

The Examiner has indicated the allowable subject matter of Claims 1-13 and 27-35. It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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